

CLINICAL EXERCISE PHYSIOLOGIST - R.S. 37:3421-3433

CHAPTER 52. CLINICAL EXERCISE PHYSIOLOGISTS

§3421. Short title

This Chapter shall be known and may be cited as the "Louisiana Clinical Exercise Physiologists Licensing Act".

Acts 1995, No. 630, §1.

§3422. Definitions

As used in this Chapter, the following terms shall apply unless the context clearly states otherwise:

(1) "Board" means the Louisiana State Board of Medical Examiners.

(2) "Clinical exercise physiologist" means a person who, under the direction, approval, and supervision of a licensed physician, formulates, develops, and implements exercise protocols and programs, administers graded exercise tests, and provides education regarding such exercise programs and tests in a cardio pulmonary rehabilitation program to individuals with deficiencies of the cardiovascular system, diabetes, lipid disorders, hypertension, cancer, chronic obstructive pulmonary disease, arthritis, renal disease, organ transplant, peripheral vascular disease, and obesity.

(3) "Exercise protocols and programs" means the intensity, duration, frequency, and mode of activity to improve the cardiovascular system.

(4) "Licensed physician" means a person who is licensed by the Louisiana State Board of Medical Examiners to practice medicine in the state.

Acts 1995, No. 630, §1.

§3423. License required

Effective January 1, 1996, no person shall practice, or in any way hold himself out, or designate himself, as a licensed clinical exercise physiologist unless he possesses a current license issued pursuant to this Chapter or is exempt from this Chapter.

Acts 1995, No. 630, §1.

§3424. Powers and duties of the board

The board shall:

(1) Examine for, approve, withhold, deny, restrict, revoke, suspend, and renew licensure of duly qualified applicants.

(2) Maintain a record of its proceedings regarding the regulation and licensing of clinical exercise physiologists in a book maintained for that purpose.

(3) Maintain a roster of all licensed clinical exercise physiologists and annually prepare a roster of the names and addresses of all such licensees. A copy of the roster shall be made available to any person requesting it upon payment of a fee established by the board as sufficient to cover the cost of the roster.

(4) Adopt rules and regulations, a professional code of ethics, and examination procedures as it may consider necessary to implement this Chapter in accordance with the Administrative Procedure Act.

(5) Establish and publish minimum standards of practice in accordance with those developed and accepted by the profession.

Acts 1995, No. 630, §1.

§3425. Qualifications for licensure; renewal

A. The board shall issue a license to each applicant who files an application upon a form and in such manner as the board prescribes, accompanied by such fee as required in R.S.

37:3428, and who furnishes satisfactory evidence to the board that he:

- (1) Is at least twenty-one years of age.
- (2) Is of good moral character.
- (3) Is not in violation of this Chapter and the rules and regulations adopted hereunder.

(4) Has a master of science degree or a master of education degree in an exercise studies curriculum from an accredited school, which school at the time of graduation, was approved by the American College of Sports Medicine or the board, and has successfully completed an internship of three hundred hours in exercise physiology under the supervision of a licensed exercise physiologist.

(5) Has passed an examination to the satisfaction of the board as provided in R.S. 37:3427.

(6) Has completed certain course work as required by the board.

B. The board shall license and renew annually the license to practice for all persons who present satisfactory evidence of qualifications as specified in this Section and under the rules and regulations adopted by the board.

C. No license shall be denied any applicant based upon the applicant's race, religion, creed, national origin, sex, or physical impairment.

D. Licenses shall be renewed annually according to procedures adopted by the board. The board may require continuing education course work as a condition of renewal.

Acts 1995, No. 630, §1.

§3426. Licensing of current practitioners

A. Any person currently practicing as a clinical exercise physiologist for a period of twelve months immediately prior to August 1, 1995, shall be licensed as a clinical exercise physiologist upon application and payment of the applicable licensing fee if he meets the qualifications in R.S. 37:3425(A)(1), (2), and (3) and meets any three of the following criteria:

(1) Has a master of science or a master of education degree in an exercise studies curriculum from an accredited school.

(2) Has one year experience as a clinical exercise physiologist in a cardiopulmonary program.

(3) Is certified as an exercise specialist by the American College of Sports Medicine.

(4) Is recommended by two licensed physicians, one of whom is a board-certified cardiologist.

(5) Has successfully completed an internship of three hundred hours in a cardiopulmonary program under the supervision of a clinical exercise physiologist.

B. After a period of one year from August 1, 1995, no person shall be licensed under this Section.

Acts 1995, No. 630, §1.

§3427. Examination

A. The board shall examine applicants for licensure as clinical exercise physiologists at such times and places as it may determine. The board shall give public notice and shall notify each person who has made satisfactory application for examination of the date, time, and place of examination.

B. The examination shall test the applicant's knowledge of such subjects as the board may consider useful in determining the applicant's fitness to practice clinical exercise physiology but may not go beyond the scope of the examination for clinical exercise physiologists as described by the American College of Sports Medicine.

C. When acting as a board of examiners of applicants for licenses to practice clinical exercise physiology in the state, the board shall appoint three or more persons who are licensed to practice exercise physiology in accordance with this Chapter to assist in the preparation and administration of the examination of applicants under rules and regulations adopted by the board.

D. An applicant shall successfully pass the examination to be eligible for licensure as a clinical exercise physiologist. The board shall notify each applicant of the results of the examination in writing. Any applicant who fails to pass the examination and is, therefore, refused licensure may take the examination again upon application and payment of an additional examination fee.

Acts 1995, No. 630, §1.

§3428. Fees

A. The board shall collect the following fees:

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| (1) Application and license fee | \$75.00 |
| (2) Renewal fee | \$25.00 |
| (3) Reissuance for lost or destroyed license | \$25.00 |

B. In addition to the fees provided in Subsection A, the board shall collect an examination fee to be determined by the board but not to exceed the cost of the examination given by the American College of Sports Medicine if such examination has not been taken.

C. Each applicant who applies for the renewal of a license after his license has expired shall pay a late fee of twenty-five dollars for each late application.

D. The fees established in this Section shall not be refundable except under such conditions as the board may establish.

Acts 1995, No. 630, §1.

§3429. Denial, revocation, or suspension of license

A. The board may withhold, suspend, restrict, revoke, or refuse to issue or renew any license issued or applied for in accordance with this Chapter or otherwise discipline a licensed clinical exercise physiologist after notice and opportunity for hearing pursuant to the Administrative Procedure Act, upon proof that the applicant or licensed clinical exercise physiologist:

- (1) Has been convicted in a court of competent jurisdiction of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof.
- (2) Has violated the code of ethics adopted by the board.
- (3) Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public or to an extent that the use impairs his ability to perform the work of a licensed clinical exercise physiologist.
- (4) Has impersonated another person holding a clinical exercise physiologist license or allowed another person to use his license.
- (5) Has used fraud or deception in applying for a license.
- (6) Has allowed his name or license issued under this Chapter to be used in connection with any person who performs clinical exercise physiology services outside of the area of his training, experience, or competence.
- (7) Is legally adjudicated mentally incompetent, the record of such adjudication being conclusive evidence thereof.
- (8) Has willfully or negligently violated any provision of this Chapter.

B. Notice of denial, revocation, suspension, or disciplinary action shall be sent to the applicant or licensee by registered mail or served personally on the applicant or licensee. The

notice shall state the particular reasons for the proposed action and shall set a date at which time the applicant or licensee shall be given an opportunity for a prompt and fair hearing. The written notice shall be sent to the person's last known address, but the nonappearance of the person shall not prevent such a hearing. For the purpose of such hearing, the board may subpoena persons, books, and papers, on its own behalf of the applicant or licensee who, may appear by counsel or personally in his own behalf.

C. On the basis of any hearing or upon default of the applicant or licensee, the board shall make a determination specifying its findings of fact and conclusions of law. A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. The decision of the board denying, revoking, or suspending the license shall become final thirty days after being mailed or served unless within such period the applicant or licensee appeals the decision as provided by the Administrative Procedure Act. No such appeal while pending appropriate court action shall supersede such denial, revocation, or suspension. All proceedings and evidence presented at hearings before the board may be admissible during appellate proceedings.

D. Every order and judgment of the board shall take effect immediately on its promulgation unless the board in such order or judgment set a probationary period for the applicant or licensee. Such order and judgment shall continue in effect until expiration of any specified time period or termination by a court of competent jurisdiction. The board shall notify all licensees of any action taken against a licensee and may make public its orders and judgments in such manner and form as it considers proper.

Acts 1995, No. 630, §1.

§3430. Violation; penalty

A. No person shall assume or use the title or designation "licensed clinical exercise physiologist" unless he has in his possession a valid license issued by the board under the authority of this Chapter. This provision shall become effective on January 1, 1996.

B. Whoever violates this Chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than five hundred dollars.

Acts 1995, No. 630, §1.

§3431. Injunction; penalty; attorney's fees; costs

A. The board, through its proper officer, may cause to issue in any competent court, a writ of injunction enjoining any person from practicing as a clinical exercise physiologist as defined herein until such person obtains a license under the provisions of this Chapter. This injunction shall not be subject to being released upon bond.

B. If it is established that the defendant has been or is committing an act declared to be a misdemeanor by this Chapter, the court shall enter a decree enjoining the defendant from further committing such act.

C. In case of violation of any injunction issued under the provisions of this Section, the court may summarily try and punish the offender for contempt of court.

D. The injunctive proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Chapter.

E. In the suit for an injunction, the board, through its president, may demand of the defendant a penalty of not more than five hundred dollars, and attorney's fees not to exceed one hundred dollars, in addition to the costs of court. This judgment for penalty, attorney's fees, and costs may be rendered in the same judgment in which the injunction is made absolute.

F. The trial of the proceeding by injunction shall be summary and by the judge without a

jury.

Acts 1995, No. 630, §1.

§3432. Exemptions

The following persons and their activities are exempted from the licensing requirements of this Chapter:

(1) Any person employed or supervised by a licensed physician whose primary duty it is to provide graded exercise testing within the confines of the physician's office. The supervisor shall not represent himself to the public as a licensed clinical exercise physiologist.

(2) Any student in an accredited educational institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a licensed clinical exercise physiologist. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained.

(3) Any person employed as a clinical exercise physiologist by any federal or state agency provided such person's activities constitute part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed.

(4) Any natural person licensed as a health care provider under any other law while acting within the scope of such licensure.

Acts 1995, No. 630, §1.

§3433. Prohibition

Nothing in this Chapter shall be construed to allow a licensed clinical exercise physiologist to practice physical therapy as defined in R.S. 37:2401 and 2410 nor shall any licensed clinical exercise physiologist hold himself out as a physical therapist or a physical therapist assistant.

Acts 1995, No. 630, §1.